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Application Number: 10/581,850
Filing Date: June 5, 2006
Title of the invention: ELASTIC CRAWLER
First Named Inventor: Yong Jae CHOI
Art Unit: 3617
Examiner Name: Stormer, Russell D.
Attorney Docket Number: LPP20061027US
Reel/Frame: N/A

Please find enclosed is the copy of the executed assignment the Applicant(s) for the above-referenced patent application assigned their full interest to the Assignor.

Respectfully submitted,

Jongwon Kim, Ph.D.
Limited No. L0224

LEXYOUME IP GROUP, LLC.
5180 Parkstone Dr., Suite 175
Chantilly, VA 20151
Tel.: (703) 263-9390
Fax: (703) 263-9361
e-mail: lex1233@lexyoume.com

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)

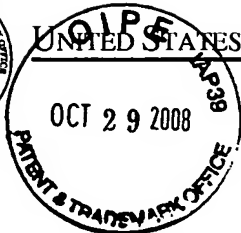
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Dated: October 29, 2008

Jongwon Kim



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,850	06/05/2006	Yong Jae Choi	038779/312635	4585

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER

STORMER, RUSSELL D

ART UNIT	PAPER NUMBER
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3617

MAIL DATE	DELIVERY MODE
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08/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



Office Action Summary

Application No.	Applicant(s)	
10/581,850	CHOI, YONG JAE	
Examiner	Art Unit	
Russell D. Stormer	3617	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4 is/are allowed.
- 6) ☒ Claim(s) 5-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/13/08</u> | 6) <input type="checkbox"/> Other: _____ |

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.

The lug unit details, as set forth in amended claim 5, do not appear to be shown in the drawings.

Claim 5 limits the first and second lugs facing each other in the length direction to having extensions which are partially overlapped with each other in the longitudinal direction of the track. This is not shown in figures 1-5. Overlapping extensions are shown in figures 6 and 8 in the embodiment of track 1B. However, in the track shown in figures 6 and 8, the lug units comprising "first lugs facing each other over two wings arranged on one side" of the track is not shown. The first lugs, such as 4R, 4R, 4R on one side of the track do not face each other as there is a second lug 5R between pairs of first lugs. First lugs, such as 4R and 4L, are not on the same side of the track, and extend over the wings of three core bars. Further, "the extensions of the first and second lugs facing each other" being "partially overlapped with each other" is not shown. In figure 5, the extensions of the first and second lugs, such as 4R and 5R or 4R and 5L, do not face each other and do not overlap.

Therefore, the subject matter of claim 5 must be shown or the feature(s) canceled from the claim.

No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter.

The structure of claim 5 in which the first and second lugs facing each other in the length direction to having extensions which are partially overlapped with each other in the longitudinal direction of the track does not appear to be described in the specification.

Further, the lug units comprising "first lugs facing each other over two wings arranged on one side" of the track; and "the extensions of the first and second lugs

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facing each other" being "partially overlapped with each other." as set forth in claim 5, does not appear to be described in the specification.

As noted above, the first lugs, such as 4R, 4R, 4R on one side of the track do not face each other as there is a second lug 5R between pairs of first lugs. First lugs, such as 4R and 4L, are not on the same side of the track, and extend over the wings of three core bars. The extensions of the first and second lugs, such as 4R and 5R or 4R and 5L, do not face each other and do not overlap.

See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

Claim Objections

Claims 1 and 5 are objected to because of the following informalities:

In line 3 of claim 5, the term "protruded0" should be changed to - -protruded- - to correct a typographical error.

However, it appears that the claim language in line 3 of claims 1 and 5 would be more correct if the phrase "protruded at" were changed to - -protruding from- -.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 5-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

As noted above, some of the subject matter of claim 5 concerning the arrangement of the lugs does not appear to be described in the specification, and the specification is therefore non-enabling for this structure.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 is indefinite because:

In lines 12-15, it is not clear if the first lugs of the lug unit are on the same longitudinal side of the track or if they face each other across the center of the track, and the positioning of the second lugs is not specified and therefore the claim is indefinite as to where the first and second lugs are located with respect to each other.

In lines 16-19, it is not clear if it the extensions which face each other, or if the first and second lugs face each other; nor is it clear if it is the lugs of pairs of first lugs

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which have overlapping extensions, or if the overlapping is between the extensions of a first lug and a second lug.

Allowable Subject Matter

Claims 1-4 are allowed.

While it appears that Applicant has attempted to define the invention of claim 5 over the prior art, a determination as to whether or not claims 5-10 would be allowable cannot be made until claim 5 is rewritten or amended to overcome the rejections under 35 U.S.C. 112, 1st and 2nd paragraph set forth above in this Office action.

Response to Arguments

Applicant's arguments filed May 13, 2008 have been fully considered but they are not persuasive.

With respect to the arguments concerning claims 1 and 5 and the Choi '666 patent on page 9 of the response, Applicant appears to argue that the track of Choi has groups of two small and one large lug, and that the small lugs "may be subject to deteriorating rigidity." This is nothing more than speculation. Further, the statement that the claims are allowable for these reasons (of deteriorating rigidity) is not persuasive and has not been given any weight in the determination of the allowability of claim 1, or the lack of a rejection of claim 5 using Choi.

Instead, structure was added to claim 1 which defined over the references of record, resulting in the indication of allowability of claims 1-4.

Conclusion

Applicant's amendment necessitated the new grounds of rejection under 35 USC 112 presented in this Office action.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell D. Stormer whose telephone number is (571) 272-6687. The examiner can normally be reached on Monday through Friday, 9 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Russell D. Stormer/
Primary Examiner, Art Unit 3617